

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 17, 2003 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Jim Keane, Vice Chairman (D)  
Rep. Donald Steinbeisser, Vice Chairman (R)  
Rep. Bob Bergren (D)  
Rep. Rod Bitney (R)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Ray Hawk (R)  
Rep. Bob Lawson (R)  
Rep. Rick Maedje (R)  
Rep. Gary Matthews (D)  
Rep. Scott Mendenhall (R)  
Rep. Penny Morgan (R)  
Rep. Allen Rome (R)  
Rep. Sandy Weiss (D)  
Rep. Bill Wilson (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Bart Campbell, Legislative Branch  
Alberta Strachan, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB285  
Executive Action: HB 164; HJR 9; HB 145; HB 126; HB 163; HB 127

HEARING ON HB 307

Sponsor: REP. BILL THOMAS, HD 93, Hobson

Opening Statement by Sponsor:

REP. THOMAS, said this was a rather unusual event in the legislative process. He said he was here to deliver a eulogy for this bill. Yesterday, on the House floor, they heard REP. BERGREN'S bill. Because it has been pre-empted by federal regulations, this bill should be killed. CHAIRMAN MCKENNEY said the committee would not conduct a hearing on the bill.  
{Tape: 1; Side: A; Approx. Time Counter: 1 - 72}

EXECUTIVE ACTION ON HB 164

{Tape: 1; Side: A; Approx. Time Counter: 73 - 259}

Motion: REP. KEANE moved HB 164 DO PASS.

Motion: REP. KEANE moved HB 164 AMENDMENTS. (16401aem)  
**EXHIBIT** (buh10a01)

Discussion:

Mr. Campbell explained the amendments.

Motion: REP. KEANE moved TO REMOVE HIS AMENDMENT. (16401aem)  
(KNOWN AS EXHIBIT (1) ABOVE)

Motion: REP. MORGAN moved AMENDMENT. (16401abc)  
**EXHIBIT** (buh10a02)

Discussion:

REP. BERGREN said this amendment was needed because "permanently totally disabled" sometimes does not occur for several years and language was needed in the bill to affirm the language in the amendment.

REP. LAWSON asked if the adoption of this amendment made the fiscal note revert to "0." Mr. Campbell said he would think that somehow it would reduce the fiscal note. With the amendment, it would only apply to injuries which occur on or after the effective date. REP. LAWSON then stated with the extension of the 10 year-out provision, there would not be a totally disabled person who would qualify for the 11th or 12th year.

**REP. BERGREN** said he agreed. As the bill is written now, it should not affect any part of the workers' compensation budget for 10 years.

**REP. WILSON** asked who requested the amendment. **Mr. Campbell** said no one did. It was done anticipating that someone on the committee would because it had been discussed by committee.

**Vote:** Motion carried on HB 164 AMENDMENT (16401abc), 15-3 with **REPS. KEANE, FRITZ** and **GALVIN-HALCRO** voting no.

**Motion:** **REP. MORGAN** moved HB 164 DO PASS AS AMENDED.

**Discussion:**

**REP. KEANE** discussed a possible conceptual amendment. **Mr. Campbell** said he was not certain if an amendment were necessary. **REP. KEANE** described what the committee had done with the last amendment: if a person had been injured before and was collecting permanent totally disabled benefits, the claimant is locked in and cannot get any increase. **Mr. Campbell** said that was correct. People who are injured after the date of this act with this amendment, would get the adjustments that existed in law but will not receive the additional adjustments.

**Substitute Motion:** **REP. MORGAN** made a **SUBSTITUTE MOTION TO RECONSIDER THE AMENDMENT WHICH WAS JUST PASSED. (16401abc)**

**CHAIRMAN MCKENNEY** said changing "claims" to "injuries" seemed appropriate to him. That is one issue. Another issue is for claimants who have been permanently disabled for a period of 15 years and who are only receiving adjustments for 10 years, will not be awarded adjustments for five of the years. Now the committee wants these people to be put back into the system from now on and treated like everyone else.

**Vote:** Motion to reconsider second amendment (16401abc) carried 18-0.

**Motion:** **REP. MORGAN** moved TO WITHDRAW THE AMENDMENT.

**Motion/Vote:** **REP. KEANE** moved TO WITHDRAW HB 164 DO PASS. Motion carried 18-0.

**CHAIRMAN MCKENNEY** then indicated we would be hearing this bill again for executive action at a later date.

CHAIRMAN MCKENNEY relinquished the chair to VICE CHAIRMAN STEINBEISSER.

EXECUTIVE ACTION ON HJR 9

*{Tape: 1; Side: A; Approx. Time Counter: 259 - Tape: 1; Side: B; Approx. Time Counter: 9}*

Motion: REP. STEINBEISSER moved HJR 9 DO PASS.

Motion: REP. MCKENNEY moved HJR 9 BE AMENDED. (901.abc)  
**EXHIBIT** (buh10a03)

Discussion:

Mr. Campbell stated there were two sets of amendments from REP. MCKENNEY and REP. MAEDJE. He then explained the amendments.

Vote: Motion to adopt HJR 9 AMENDMENTS DO PASS. (901abc).  
Motion carried 18-0.

Motion/Vote: REP. MAEDJE moved HJR 9 AMENDMENTS (Exhibit 4) DO PASS. Roll call vote was taken which failed 4-14 with REPS. BOOKOUT-REINICKE, HAWK, MAEDJE and WILSON voting yes.  
**EXHIBIT** (buh10a04)

Motion/Vote: REP. MCKENNEY moved HJR 9 DO PASS AS AMENDED.  
Motion carried 18-0.

REP. STEINBIESSER was asked to chair the committee.

EXECUTIVE ACTION ON HB 145

*{Tape: 1; Side: B; Approx. Time Counter: 10 - 90}*

Motion: REP. MCKENNEY moved HB 145 DO PASS.

Motion: REP. MCKENNEY moved that HB 145 BE AMENDED. Motion passed 18-0.

Discussion:

Mr. Campbell said these amendments were brought by the department. He then explained the amendments.

**REP. MCKENNEY** said it is truly a housekeeping bill. The people who have the expertise to know what is in this bill had the opportunity to go through it and take out any area that may have had some minor controversy.

**REP. FRITZ** asked for an explanation of amendment number 8. **Mr. Campbell** said that was an existing section. The only change is the underlined language.

**Vote:** Motion carried on HB 145 AMENDMENTS, 18-0.

**Motion/Vote:** **REP. MCKENNEY** moved HB 145 DO PASS AS AMENDED.  
Motion carried 18-0.

**REP. MCKENNEY** resumed chairing the committee.

#### **EXECUTIVE ACTION ON HB 126**

***{Tape: 1; Side: B; Approx. Time Counter: 90 - 179}***

**Motion:** **REP. FRITZ** moved HB 126 DO PASS.

#### **Discussion:**

**REP. FRITZ** stated that more clarification was needed on the bill. **Mr. Steve Bender, Deputy Director, Department of Administration,** stated there was some concern about this bill. This bill needed some contingency language to deal with the impact of this legislation. The money needs to be appropriated and justified. All of the spending, regardless of how it is funded, must be justified in the appropriation process. This process is subject to legislative audit. There is a statute designed to prevent excessive charges that flow into the states special revenue account. As part of that process, the budget office scans all the states special revenue accounts and looks at their balances. **REP. FRITZ** asked what happened to the large amounts of funds. They are coming in because of the interstate cases coming up. The bureau needs to act immediately on those.

**Vote:** Motion carried 18-0 on HB 125 DO PASS.

#### **EXECUTIVE ACTION ON HB 163**

***{Tape: 1; Side: B; Approx. Time Counter: 180 - Tape: 1; Side: B; Approx. Tape Count: 1}***

**Motion:** REP. LAWSON moved HB 163 DO PASS.

**Discussion:**

REP. MORGAN stated there should be fewer attorneys instead of more attorneys in this process. It appears the injured worker still has the option of seeking a different attorney.

REP. GALVIN-HALCRO stated vocational counselors could be found through the job service and insurance companies. The insurance companies are not giving the injured workers credit to seek someone who is not an advocate of the insurance companies. The injured person should be able to work with someone who is truly their advocate.

REP. KEANE said it becomes a reasonable request of the injured worker to proceed in the claim as he wishes.

Mr. Campbell suggested a technical amendment. There are two places on the bill in Section 2 which needs this amendment.

REP. MAEDJE suggested this bill be placed in a conference committee for further review. CHAIRMAN MCKENNEY declined the suggestion for a conference committee.

**Motion/Vote:** REP. BOOKOUT-REINICKE moved HB 163 TECHNICAL AMENDMENT. Motion carried 18-0.

**Motion/Vote:** REP. FRITZ moved HB 163 DO PASS AS AMENDED. A roll call vote was taken which failed 9-9 with REPS. MCKENNEY, STEINBEISSER, BITNEY, HAWK, LAWSON, MAEDJE, MENDENHALL, MORGAN, ROME voting no.

**Motion/Vote:** REP. LAWSON moved HB 163 BE TABLED. Motion carried 10-8 with REPS. KEANE, BERGREN, FRITZ, GALLIK, GALVIN-HALCRO, MATTHEWS, WEISS, WILSON voting no.

**HEARING ON HB 285**

**Sponsor:** REP. ROY BROWN, HD 14, Billings

**Opening Statement by Sponsor:**

REP. BROWN, said this bill was an act revising laws related to military status; providing that a public high school shall provide equal access to U.S. armed forces recruiters visiting the campus as other recruiters protecting the election law residence

rights of a reserve member of the U.S. armed forces activated to federal military duty; prohibiting certain adverse actions related to the professional licensure of a reserve member of the U.S. armed forces who is activated to federal military duty for an extended length of time.

**{Tape: 2; Side: A; Approx. Time Counter: 98 - 148}**

**Proponents' Testimony:**

**Kevin Phillips, Helena resident**, provided written testimony and an article from USA Today regarding citizen soldiers report long tours, little support.

**EXHIBIT (buh10a05)**

**{Tape: 2; Side: A; Approx. Time Counter: 148 - 199}**

**John Tarr, Retired Lt. Col., U.S. Army**, said he had been a recruiting commander and soldiers who recruit are well trained. They are the best of the best and they are not people who are going into a high school and disrupt the students. These recruiters sell service to the country. They need access to high school students and sometimes a counselor or administrator denies them access. Recruiters bring opportunity for the student, job training, money for college, money after their discharge in the form of a G.I. Bill, a good wage and a substantial retirement of 50% of their salary. They have some great opportunities.

**{Tape: 2; Side: A; Approx. Time Counter: 199 - 271}**

**Lt. Col. Dave Dreher, Commander of 370th Quarter Master Battalion Reserve Unit, Great Falls and President, Reserve Officer's Association** said he supports this bill specifically as it relates to readiness for our country.

**{Tape: 2; Side: A; Approx. Time Counter: 272 - 313}**

**Col. Bob Frey, West Point Liaison Officer, State Coordinator**, said he was a proponent of this bill especially in regard to Section 1. The young people of the state have very limited knowledge and very limited visibility of the military academy.

**{Tape: 2; Side: A; Approx. Time Counter: 314 - 358}**

**Lance Hare, Company Commander, U.S. Army Reserve** said Helena High School is one of the schools which do not allow recruiting. He also said he had three officers under his command holding licenses as plumbers and electricians and they want to retain their status in their career fields upon return of active duty.

**{Tape: 2; Side: A; Approx. Time Counter: 359 - 406}**

**Hal Manson, American Legion of Montana and the Reserve Officers Association,** said the country needs young people. He also spoke on the absentee ballot for service men and women during elections.

**{Tape: 2; Side: A; Approx. Time Counter: 406 - 448}**

**Kevin Brun, Professional and Occupational Licensing, Department of Labor,** said they support this bill.

**{Tape: 2; Side: A; Approx. Time Counter: 448 - 459}**

**Opponents' Testimony:**

**Bob Vogel, Montana School Boards Association,** said he did have a minor concern with the bill. Parents may opt out of the contact with military recruiters for their students.

**{Tape: 2; Side: A; Approx. Time Counter: 459 - 489}**

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALVIN-HALCRO** asked **REP. BROWN** if this were a trust me bill and the outcome of the previous legislation regarding this same proposal. **REP. BROWN** said this legislation does not change that portion of the law.

**Tape: 2; Side: A; Approx. Time Counter: 490 - Tape: Side: B; Approx. Time Counter: 55 Comments: This tape was stopped at 55)**

**Closing by Sponsor:**

Sponsor closed.

**{Tape: 3; Side: A; Approx. Time Counter: 56 - 137}**

**EXECUTIVE ACTION ON HB 127**

**{Tape: 3; Side: A; Approx. Time Counter: 138 - 500}**

**Motion:** **REP. FRITZ** moved **HB 127 DO PASS.**

**Motion:** **REP. GALLIK** moved **HB 127 AMENDMENTS.**

**Discussion:**

**Mr. Campbell** explained the amendments.

**Motion:** **REP. MENDENHALL** moved **CONCEPTUAL AMENDMENT.**



**Vote:** Motion failed 8-10 on the Mendenhall amendment with REPS. KEANE, MORGAN, FRITZ, BERGREN, GALVIN-HALCRO, WILSON, WEISS, MATTHEWS voting yes.

**Discussion:**

REP. HAWK questioned the motorcycle language in the bill. Mr. Campbell said by striking the words "motor cycle" as defined as part of the motor vehicle, it would be subject to the two year warranty and 18,000 mile provision. REP. HAWK then said motor-cycles should not be under the warranty period. This was affirmed.

REP. KEANE said motor-cycles do belong in the law as motor vehicles and this bill indicates they have a two year warranty.

REP. MORGAN asked what the manufacture warranty was on a motor-cycle. REP. MENDENHALL said he did not know. REP. MORGAN then said

Mr. Campbell said not to be confused with your warranty which is received upon purchase of a car and the lemon law. Two years of warranty are given from the manufacturer. The lemon law allows that within the two year period, on a new vehicle, if you have a certain number of problems with the vehicle, there is a way to return the vehicle to the dealership. REP. MORGAN said the question of mileage is a non-issue.

**Motion:** REP. MENDENHALL made a motion to WITHDRAW HIS AMENDMENT.

**Discussion:**

REP. BITNEY suggested a no vote on this bill.

CHAIRMAN MCKENNEY said there is probably more in this bill that would be confusing. There are questions in this bill that are unanswered and said he was voting no.

REP. GALLIK said he was going to support the bill.

**Motion/Vote:** REP. FRITZ moved HB 127 DO PASS AS AMENDED. A roll call vote was taken passing 10-8 with REPS. MCKENNEY, STEINBEISSER, BITNEY, HAWK, LAWSON, MAEDJE, MENDENHALL and ROME voting no.

**ADJOURNMENT**

Adjournment: 11:40 A.M.

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REP. JOE MCKENNEY, Chairman

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ALBERTA STRACHAN, Secretary

JM/AS

**EXHIBIT** (buh10aad)